

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TONY LAMAR HAYNES : CIVIL ACTION
: :
v. : :
: :
COMMONWEALTH, ET AL. : NO. 09-4295

ORDER

AND NOW, this 4th day of October, 2010, upon careful and independent consideration of the Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (Docket No. 1) and the Petitioner's Remarks (Docket Nos. 32, 33),¹ and after review of the Report and Recommendation of United States Magistrate Judge M. Faith Angell, **IT IS HEREBY ORDERED** as follows:

1. The Report and Recommendation is **APPROVED** and **ADOPTED**.
2. The Petition for Writ of Habeas Corpus is **DISMISSED WITHOUT PREJUDICE**.
3. Because Petitioner has failed to make a substantial showing of the denial of a constitutional right or demonstrate that a reasonable jurist would debate the correctness of this ruling, the Court declines to issue a certificate of appealability under 28 U.S.C. § 2253(c)(2).
4. The Clerk shall **CLOSE** this case statistically.

BY THE COURT:

/s/ John R. Padova
John R. Padova, J.

¹ In his Remarks, Petitioner does not take issue with Judge Angell's reasoning or decision. Instead he states his intention to return to state court.